



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 33254580

Date: SEPT. 20, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a dentist/orthodontist, seeks classification under the employment-based, first-preference (EB-1) immigrant visa category as a noncitizen with “extraordinary ability.” *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Successful petitioners for U.S. permanent residence in this category must demonstrate “sustained national or international acclaim” and extensively document recognition of their achievements in their fields. *Id.*

The Director of the Nebraska Service Center denied the petition. The Director concluded that the Petitioner neither demonstrated her intent to continue working in her field in the United States nor met any of ten initial evidentiary requirements for establishing extraordinary ability. On appeal, the Petitioner contends that the Director overlooked evidence and misunderstood regulatory requirements.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo’s, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that the Petitioner has met two of the initial evidentiary criteria for extraordinary ability – one less than required for a final merits decision. We will therefore dismiss the appeal.

I. LAW

To qualify as a noncitizen with extraordinary ability, a petitioner must demonstrate that they:

- Have “extraordinary ability in the sciences, arts, education, business, or athletics;”
- Seek to continue work in their field of expertise in the United States; and
- Through their work, would substantially benefit the country.

Section 203(b)(1)(A)(i)-(iii) of the Act. The term “extraordinary ability” means expertise commensurate with “one of that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2).

Evidence must demonstrate a noncitizen's receipt of either "a major, international recognized award" or satisfaction of at least three of ten lesser evidentiary criteria. 8 C.F.R. § 204.5(h)(3)(i-x).¹ If a petitioner meets either standard, USCIS must then make a final merits determination as to whether the record, as a whole, establishes sustained national or international acclaim and recognized achievements placing them among the small percentage at their field's very top. *Kazarian v. USCIS*, 596 F.3d 1115, 1119-20 (9th Cir. 2010); *see generally* 6 *USCIS Policy Manual* F.(2)(B), www.uscis.gov/policy-manual.

II. ANALYSIS

The record shows that, in 2013, the Petitioner, a Kyrgyzstani native and Russian citizen, earned a doctoral degree in public health and healthcare from a Russian medical university. She later opened a small, dental office in Russia. In 2017, she expanded the business and began focusing on neuromuscular dentistry. From 2019 to 2022, she served as the clinic's chief physician. Now in the United States, the Petitioner states that she seeks to continue working in the dentistry/orthodontics field at an international postgraduate center.

A. Extraordinary Ability

The record does not establish – nor does the Petitioner claim – her receipt of a major internationally recognized award. She must therefore satisfy at least three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i-x).

The Director found that the Petitioner did not meet any of the evidentiary requirements. On appeal, she contends that she submitted evidence of:

- Her receipt of lesser nationally or internationally recognized awards in her field;
- Her membership in associations in her field that require outstanding achievements;
- Published material about her in her field;
- Her original contributions of major significance in the field;
- Her authorship of scholarly articles in the field; and
- Her performance in a leading or critical role for organizations with distinguished reputations.

See 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), (v), (vi), (viii).²

1. Lesser Nationally or Internationally Recognized Awards

This criterion requires "[d]ocumentation of the [noncitizen]'s receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." 8 C.F.R. § 204.5(h)(3)(i).

¹ If an evidentiary standard does not "readily apply" to a petitioner's occupation, they may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

² The Petitioner previously asserted her satisfaction of 8 C.F.R. § 204.5(h)(3)(vii), requiring "[e]vidence of the display of the [noncitizen]'s work in the field at artistic exhibitions or showcases." On appeal, she does not claim to meet the requirement. We will therefore treat the issue as "waived." *See, e.g., Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citation omitted).

When adjudicating this requirement, USCIS first determines whether a petitioner – as opposed, for example, to their employer – received prizes or awards. *See generally* 6 USCIS Policy Manual F.(2)(B)(1). The Agency then determines whether an award has national or international recognition and rewards excellence in the field of endeavor. *Id.* Relevant considerations include: criteria used to grant awards; the awards’ national or international significance; the number of awardees; and any limitations on competitors. *Id.*

The Petitioner submitted evidence of her receipt of national awards, including: the “Dentist of the Year” [redacted] award in 2022; the “Best Chief of the Year” award from the [redacted] in 2021; and “Leader of the Year” [redacted] Annual Award in 2021. She also provided proof of her receipt of international awards in 2022. These include a second-degree prize for “Physician Innovator of the Year” in an international [redacted] competition and a third-degree prize for “Debut of the Year” in an international [redacted] contest.³

The record supports the Director’s conclusion that the Petitioner did not sufficiently demonstrate national or international recognition of these awards. The Petitioner submitted a copy of an Internet article about the 2022 [redacted] awards. But evidence of this and her other national awards do not indicate their number of awardees or their national or international significance. Similarly, evidence of the Petitioner’s international awards do not indicate their significance. *See Krasniqi v. Dibbins*, 558 F.Supp.3d 168, 182 (D.N.J. 2021) (quoting *Visincaia v. Beers*, 4 F.Supp.3d 126, 136 (D.D.C. 2013)) (“[E]vidence solely from the awarding organization itself may be insufficient if it does not show ‘how a larger audience viewed [the] awards.’”)

On appeal, the Petitioner states: “The significance of these awards is evident from the reputation of the organizations granting them, the rigorous selection processes involved, and the recognition they receive within the field of Dentistry and Orthodontics.” The Petitioner, however, does not point to evidence of the organizations’ reputations or the awards’ recognition in the dentistry/orthodontics field.

The Petitioner has not demonstrated that her awards have national or international recognition. We will therefore affirm the Director’s finding on this evidentiary criterion.

2. Membership in Associations

This criterion requires “[d]ocumentation of the [noncitizen]’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.” 8 C.F.R. § 204.5(h)(3)(ii). If an association has multiple levels of membership, a petitioner must show that, to obtain their membership level, recognized national or international experts judged them to have made outstanding achievements in their field. *See generally* 6 USCIS Policy Manual F.(2)(B)(1).

³ In support of this and the other challenged evidentiary criteria, the Petitioner also submits an expert opinion letter from a U.S. retired endodontics professor. For the same reasons stated in this decision, the record does not support the expert’s favorable conclusions regarding this and the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(ii), (v), (viii). *See Matter of Caron Int’l, Inc.*, 19 I&N Dec. 791, 795 (Comm’r 1988) (allowing the immigration service to reject or afford lesser evidentiary weight to expert testimony that conflicts with other information “or is in any way questionable”).

The Petitioner submitted evidence of her membership in the International College of Craniomandibular Orthopedics (ICCMO) and the Professional Society of Orthodontists of Russia. As the Director found, the Petitioner has not demonstrated that these organizations require outstanding achievements of their members as judged by recognized national or international experts in her field.

The Petitioner demonstrated that she has “fellowship” status in the ICCMO. The organization’s bylaws state that, to obtain fellowship, a candidate must: submit original research or a series of documented case histories; and complete a written examination, continue education, publish work, or teach in the field. The Petitioner argues that, contrary to the Director’s finding, ICCMO fellowship requires more than completion of a certain level of education or work experience. But the record falls short of showing that fellowship in the organization requires “outstanding achievements.” *See* 8 C.F.R. § 204.5(h)(3)(ii); *see also Braga v. Poulos*, No. CV06-5105, 2007 WL 9229758, *5 (C.D. Cal. July 6, 2007), *aff’d*, 317 Fed.App’x 680 (9th Cir. 2009) (requiring a petitioner to submit evidence that any of the Jiu-Jitsu organizations to which he belonged required outstanding achievements of their members).

As proof of her membership in the Russian orthodontists society, the Petitioner provided letters from the society’s president. One letter states that, besides a dentistry diploma, a society member must have a license to practice orthodontics and “an outstanding record of achievement in the field, such as publications, teaching, participation in research, attendance at professional conferences, etc.” The society’s president also stated that nationally or internationally recognized experts in the field assess applicants’ eligibility for membership.

The record, however, does not support the society president’s stated membership criteria. The president’s letter states the Petitioner’s membership in the society since September 2006. The record, however, indicates that she did not obtain an orthodontics license until June 2008. The discrepancy casts doubt on the president’s stated membership criteria. *See Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988) (requiring a petitioner to resolve inconsistencies with independent, objective evidence pointing to where the truth lies). Also, the record does not indicate – nor does the Petitioner claim – any outstanding achievements in her field by September 2006. For this additional reason, the record casts doubt that the society requires outstanding achievements of its members. *Id.*

The Petitioner has not demonstrated her membership in associations in the field that require outstanding achievements of their members as judged by recognized national or international experts. We will therefore affirm the Director’s finding regarding this evidentiary criterion.

3. Published Materials About the Petitioner

To meet this requirement, a petitioner must submit “[p]ublished material about [themselves] in professional or major trade publications or other major media, relating to [their] work in the field for which classification is sought.” 8 C.F.R. § 204.5(h)(3)(iii). “Such evidence shall include the title, date, and author of the material, and any necessary translation.” *Id.*

When adjudicating this requirement, USCIS first determines whether the published material relates to a petitioner and their specific work in the field. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1). Evidence may include copies of print or online newspaper or magazine articles, popular or academic

journal articles, books, textbooks, similar publications, or a transcript of professional or major audio or video coverage of a petitioner and their work. *Id.* The Agency then determines whether the publication qualifies as a professional, major trade, or major media publication. *Id.* When evaluating professional, major trade, or major media, USCIS must examine the evidence. Relevant factors include: for professional and major trade publications, the intended audience; and, for major trade publications and other major media, the relative circulation, readership, or viewership. *Id.*

The Petitioner provided evidence of 11 published materials about her in Russia. Most are online articles in which she answers questions about maladies and treatments in her field.

The Director found insufficient evidence that the online articles appeared in professional or major trade publications or other major media. The Petitioner provided data estimating the Internet domain traffic or visits to the sites. But the Director stated that the data do not “determine a publication’s circulation, readership and/or viewership” or compare their metrics to other publications.

The Petitioner, however, provided data from a reputable web analytics company indicating that two of the articles about her appeared among the top-ranked news and media sites in Russia. Thus, we find that the Petitioner submitted published material about her in major media relating to her work in her field. We will therefore withdraw the Director’s contrary finding.

4. Original Contributions of Major Significance

This criterion requires “[e]vidence of the [noncitizen]’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.” 8 C.F.R. § 204.5(h)(3)(v).

USCIS first determines whether a petitioner made original contributions in the field. *See generally* 6 USCIS Policy Manual F.(2)(B)(1). The Agency then determines whether the original contributions are of major significance to the field. *Id.*

The Petitioner submitted 11 letters in support of her claimed original contributions of major significance. The Director did not consider five of the letters, finding that they lacked “contact information in accordance with [8 C.F.R. § 204.5(g)(1)] and therefore cannot be considered probative.”

The cited regulation, however, applies to “[e]vidence relating to qualifying experience or training.” 8 C.F.R. § 204.5(g)(1). The Petitioner used the letters as evidence of original contributions of major significance.

The Petitioner’s evidence focuses on two contributions to her field: her modifications to orthodontic treatment devices called advanced lightwire functionals (ALF); and her research on pre-surgical protocols for implant and other patients.

The president of a company that manufactures ALF devices stated that, since 2015, the business has made devices based on the Petitioner’s recommended changes. The company president stated that, in 2020, doctors whose patients used the modified devices reported that they fit patients better and improved results. The company president stated: “Our collaboration proves that [the Petitioner] has

a certain level of knowledge in dentistry and the necessary specialization, since the use of ALF devices is the highest level of knowledge in dentistry and ortho-cranial orthodontics.” The dentist who trained the Petitioner in neuromuscular dentistry called her ALF modifications “an invaluable contribution.” A dental surgeon who also lectures at a Russian university stated: “The [Ppetitioner]’s proposals for changes to the ALF apparatus have made a significant contribution to international practical dentistry.”

As the Director found, however, the record does not sufficiently demonstrate that the Petitioner’s ALF modifications have “major significance” in the dentistry/orthodontics field. The president of the company that manufactures the devices stated that only “[a]pproximately 1 [to] 5% of dentists around the world use osteopathic methods for comprehensive patient rehabilitation.” The record does not indicate how many of those dentists use the modified ALF devices. Also, the president did not indicate how many of the modified devices his company has made or whether other companies make them. Thus, because the record does not demonstrate widespread use of her ALF modifications in the field, the Petitioner has not established their claimed “major significance.” *See Krasniqi*, 558 F.Supp.3d at 187-88 (holding that “major significance” means “the impact should extend beyond the petitioner’s locality or a handful of participants in the field”) (citations omitted).

The Petitioner argues that the company president’s letter:

demonstrates that the results of my work have been successfully applied in practice and have found widespread application in the medical field. Such recognition by commercial entities indicates that my developments have high potential in the field of orthodontics and healthcare as a whole.

The criterion, however, requires evidence of “contributions of major significance in the field.” Evidence that the Petitioner’s contributions have a “high potential” to have major significance is insufficient. *See Karim v. Allen*, No. 21-cv-2861-WJM-KLM, 2023 WL 4624896, *7 (D. Colo. July 19, 2023) (affirming USCIS’ determination that a petitioner did not demonstrate “that she *already* made contributions of major significance to the field”) (emphasis in original). Also, as previously discussed, the Petitioner has not submitted sufficient evidence to demonstrate that her ALF modifications “have found widespread application in the medical field.”

Regarding the Petitioner’s research on pre-surgical protocols, a Massachusetts dentist called the Petitioner’s work “extremely important.” He said it is “essential” to understand and implement radiographic and clinical examinations of implant candidates. He stated: “The completion of such protocols leads to a much improved result in patients receiving proper and timely treatment with dental implants.” The Russian dental surgeon stated that he uses the Petitioner’s research papers on pre-surgical protocols in his lectures. He stated: “Her works set the standard for pre-surgical evaluation of patients, especially for implantation.”

Despite the favorable letters, the Petitioner has not sufficiently demonstrated that her research on pre-surgical protocols has “major significance” in the dentistry/orthodontics field. As the Director found, the record does not establish others’ frequent citations to the Petitioner’s work or its provocation of widespread commentary in the field. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1).

The Petitioner concedes that evidence of widespread commentary or a large number of citations is “probative” of major significance. But she argues that such evidence “may not be dispositive as to this criterion.” The Petitioner, however, has not pointed to other evidence establishing that her research has major significance in the field.

The Petitioner has not demonstrated that her original contributions in her field are of major significance. We will therefore affirm the Director’s finding regarding this evidentiary requirement.

5. Authorship of Scholarly Articles

To meet this criterion, a petitioner must submit “[e]vidence of [their] authorship of scholarly articles in the field, in professional or major trade publications or other major media.” 8 C.F.R. § 204.5(h)(3)(vi).

USCIS first determines whether a petitioner has authored scholarly articles in the field. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1). A scholarly article reports on original research, experimentation, or philosophical discourse and is written by a researcher or expert in the field who is often affiliated with a college, university, or research institution. *Id.* Also, scholarly articles generally undergo peer review by other experts in the field of specialization. *Id.*

The Agency next determines whether a publication qualifies as a professional, major trade, or major media publication. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1). In evaluating publications, relevant factors include: for professional journals, the intended audience; and, for major media, the circulation or readership relative to other media in the field. *Id.*

The Petitioner submitted evidence of 10 articles that she wrote or co-authored between 2012 and 2023. Many were published in Russian medical or dental journals.

The Director found that abstracts of the articles lacked dates of the articles’ reviews, acceptances, and publishing, casting doubt on their claimed publications. The Director also faulted the Petitioner for omitting “a URL address or any other information for USCIS to independently verify that each article was published to Google Scholar, etc. and to verify that [she is] the actual author.”

Contrary to the Director’s findings, the abstracts provide dates of the articles’ publishing. Also, Google Scholar verifies a few of the articles and lists the Petitioner as the author or co-author. Further, in response to the Director’s request for additional information, the Petitioner provided full copies of the articles, with letters from the publishers verifying the articles’ publishing dates and her authorship or co-authorship of them. The record also indicates that all of the Russian journals are peer-reviewed.

The Petitioner has demonstrated her authorship of scholarly articles in her field by a preponderance of the evidence. We will therefore withdraw the Director’s contrary finding.

6. Performance in a Leading or Critical Role

To meet this requirement, a petitioner must submit “[e]vidence that [they have] performed in a leading or critical role for organizations or establishments that have a distinguished reputation.” 8 C.F.R. § 204.5(h)(3)(viii).

USCIS first determines whether a petitioner has performed in a leading or critical role for an organization, establishment, or a division or department of an organization or establishment. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1). A leading role means that a petitioner is or was a leader within the organization. *Id.* In contrast, a critical role means a petitioner “contributed in a way that is of significant importance to the outcome of the [relevant] organization’s . . . activities.” *Id.*

The Agency then determines whether the organization has a distinguished reputation. *See* 6 *USCIS Policy Manual* F.(2)(B)(1). The word “distinguished” means “marked by eminence, distinction, or excellence” or “befitting an eminent person.” Merriam-Webster Online Dictionary, www.merriam-webster.com/dictionary/distinguished. Relevant factors include not only an organization’s relative size or longevity but also the scale of its customer base or relevant media coverage. *See* 6 *USCIS Policy Manual* F.(2)(B)(1).

The Petitioner provided letters from her partner in her clinic, three clinic employees, a Russian dentist, and the head of a digital agency. The letters describe the Petitioner’s activities at the clinic and its growth from one to five dental chairs.

The Director found insufficient evidence of both the Petitioner’s participation in a leading or critical role at the clinic and the business’s possession of a distinguished reputation. The Director found that the submitted letters lack “detailed and probative information that specifically addresses how [the Petitioner’s] role was leading or critical for an entire organization, establishment, division, or department.”

We disagree. The letters describe how the Petitioner co-founded the clinic and managed it during its expansion. The letters state that she not only coordinates treatment plans for all patients but also, as chief physician, manages the clinic’s business operations. The letters indicate her development of an automated management system that has improved clinic work processes, reduced patients’ waiting times, and increased the business’s profits. A preponderance of the evidence therefore establishes the Petitioner’s performance in both a leading and critical role for the clinic.

The record, however, lacks sufficient evidence to demonstrate that the Petitioner’s clinic has a distinguished reputation. Employees describe the clinic as one of the best in Russia, and the Petitioner provided evidence of positive online reviews. The record also contains evidence that the clinic received an International Heritage diploma, indicating that the business passed a “comprehensive” financial and economic analysis rating it as a “stable and dynamically developing enterprise.” But the record does not demonstrate the diploma’s significance. The record also does not sufficiently indicate the clinic’s size or the scale of its customer base, and contains insufficient evidence of media coverage about it or its reputation in the dentistry/orthodontics field.

The Petitioner argues that her clinic is “one of the most successful and recognizable orthodontic clinics in Russia.” But she has not provided sufficient evidence to support these claims.

The Petitioner has not demonstrated her performance in a leading or critical role for an organization with a distinguished reputation. We will therefore affirm the Director’s finding on this evidentiary requirement.

The Petitioner has not received a major international award and has satisfied less than three initial evidentiary criteria regarding extraordinary ability. The petition therefore does not demonstrate the Petitioner’s claimed extraordinary ability in her field. *See* 8 C.F.R. § 204.5(h)(3).

B. Intent to Continue Working in the Field

Our determination that the Petitioner has met less than three initial evidentiary requirements for extraordinary ability resolves this appeal. We therefore need not reach and hereby reserve consideration of the Director’s finding of insufficient evidence of her intent to continue working in her field in the United States. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies need not make “purely advisory findings” on issues unnecessary to their ultimate decisions); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternate issues on appeal where an applicant did not otherwise meet their burden of proof).

III. CONCLUSION

The Petitioner has not met the minimum number of evidentiary criteria to establish extraordinary ability in her field.

ORDER: The appeal is dismissed.